

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92255; File No. SR-BOX-2021-16]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend BOX Rule 7300 (Preferred Orders)

June 24, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 11, 2021, BOX Exchange LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 7300 (Preferred Orders). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room and also on the Exchange’s internet website at <http://boxoptions.com>.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend BOX Rule 7300 to provide greater clarification about the Exchange’s current allocation process for Preferred Orders. Specifically, the

Exchange proposes to add Rule 7300(c)(4) (Remaining Preferred Market Maker Interest) to more accurately describe the Preferred Order allocation methodology. The Exchange notes that the allocation as described by the proposed rule text is consistent with the Exchange’s current allocation methodology.

As background, a Preferred Order is any order (single leg or complex) submitted by a Participant to the Exchange for which a specific Market Maker is designated (a “Preferred Market Maker”) to receive execution priority, with respect to a portion of the Preferred Order.³ Except as described in further detail below, Preferred Orders are treated the same as other orders submitted to the Exchange and executed in price/time priority according to the existing matching algorithm on the Exchange.⁴ For each price level at which all order quantities on the BOX Book are fully executable against a Preferred Order on a single options series, all such orders at that price will be filled and the balance of the Preferred Order, if any, will be executed, to the extent possible, against orders at the next best price level.⁵ However, at the final price level, where the remaining quantity of the Preferred Order is insufficient to match the total quantity of orders on the BOX Book, the allocation algorithm for orders executable against the remaining quantity of the Preferred Order will differ from the regular price/time priority algorithm by allocating executions in the following order: (1) To Public Customers, (2) a preferred percentage to the Preferred Market Maker (subject to certain conditions explained in Rule 7300), (3) to all remaining quotes and orders on single option series and (4) to any Legging Order.⁶

The Exchange’s proposal seeks to further clarify the allocation process.⁷ The current rule text does not specify what happens to the Preferred Market Maker’s remaining quote quantity that exceeds the size of their preferred percentage allocation pursuant to 7300(c)(2). The Exchange notes although such an allocation rarely occurs, the Exchange believes this proposal will

improve market participant’s understanding of the BOX trading system and will continue to conform with the Exchange’s existing rules to treat Legging Orders last in priority. Therefore, the Exchange is proposing additional rule text detailing that if after the allocation of all orders and quotes in 7300(c)(1) through (3), there still remains an unallocated quantity of the Preferred Order, the remaining quantity of the Preferred Order will be allocated to any Preferred Market Maker quote size exceeding the preferred allocation percentage in 7300(c)(2). Additionally, if at the end of the proposed Remaining Preferred Market Maker Interest allocation, any interest remains, the balance of the Preferred Order will be allocated to Legging Orders, thereby maintaining their existing designation as last in priority.

Lastly, the Exchange proposes a technical amendment to Rule 7300(c)(2) to include the word “Preferred” in order to more accurately describe the allocation to the Preferred Market Marker.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁸ in general, and Section 6(b)(5) of the Act,⁹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange’s proposal to amend Rule 7300 is consistent with the Act because it adds more context to the Exchange’s current Rulebook and coincides with the Exchange’s original proposal to give Legging Orders last priority under Rule 7300. Specifically, when the Exchange first adopted Rule 7300 (Preferred Order Rule) the Exchange explained that Legging Orders would be given last priority which preserved the established priority of Legging Orders since they had last priority under the then existing allocation algorithm.¹⁰ The Exchange

³ See BOX Rule 7300(a).

⁴ See BOX Rule 7300(b).

⁵ See BOX Rule 7300(c).

⁶ See *id.* A Legging Order is a Limit Order on the BOX Book that represents one side of a Complex Order that is to buy or sell an equal quantity of two options series resting on the Complex Order Book.

⁷ The Exchange notes, no system changes to existing functionality are being made pursuant to this proposal. Rather, this proposal is designed to reduce any potential investor confusion.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ See Securities Exchange Release No. 34-74210 (February 5, 2015), 80 FR 7663 (February 11, 2015) (SR-BOX-2014-28) (Commission Order Approving BOX Rule 7300).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

notes this is still true today.¹¹ When the Exchange originally adopted Legging Orders it noted that Legging Orders would only execute after all other executable interest on the BOX Book at the same price was executed in full, and therefore would not negatively impact the regular market.¹² The Exchange notes the current proposal continues to uphold this priority scheme by ensuring all interest on the BOX Book executes before Legging Orders.

In addition, the Exchange believes the proposal brings greater clarity to its rules and helps foster coordination with persons engaged in facilitating transactions in securities because the proposal codifies how part of the trading system currently functions. The Exchange's proposal, which more clearly explains how the system allocates Preferred Orders, protects investors and the public interest because it adds specificity to the rules with respect to current system functionality. Specifically, the proposed change will further clarify the current rule to more specifically describe the order in which the system handles Preferred Order allocation on BOX. The additional detail makes it clear that after the allocation of all orders and quotes in 7300(c)(1) through (3), there remains any unallocated quantity of the Preferred Order, that remaining quantity will be allocated to any Preferred Market Maker quote size exceeding the preferred allocation percentage. The Exchange believes adding additional language detailing what happens to the remaining quantity of Preferred Market Maker quotes promotes transparency and reduces ambiguity within the Exchange's Rules which ultimately benefits and protects investors. As noted above, this is not a change to how the Preferred Order allocation currently operates, but merely a clarification of the allocation process.

Furthermore, the Exchange notes the current proposal to treat Legging Orders last in priority is in line with another priority allocation scheme within its Rulebook.¹³ Specifically, under BOX Price Improvement Period ("PIP") Rule 7150, Legging Orders are subject to the same priority. BOX Rule 7150 provides that only after all other orders and quotes have been allocated, if there

remains any unallocated quantity of a PIP Order, then an allocation to Legging Orders will be made.¹⁴ Therefore, the Exchange believes the current proposal provides consistency within its rulebook, reduces the potential for investor confusion, and meets investor expectations of treating Legging Orders last in priority for trade allocations. Additionally, the Exchange notes at least one other exchange also designates Legging Orders for last priority and explicitly holds that Legging Orders are last in priority for one of its execution algorithms.¹⁵ Specifically, similar to the Exchange's current Legging Orders Rule 7240(c), Nasdaq ISE, LLC ("ISE") Options 3, Section 7(k)(2) maintains that legging orders are executed only after all other executable orders (including any non-displayed size) and quotes at the same price are executed in full. Further, under ISE's Size Pro-Rata Execution Algorithm, ISE holds that only after all other remaining interest has been fully executed will Legging Orders be allocated.¹⁶ Therefore, the Exchange believes the proposal further aligns its rulebook with at least one other exchange within the industry and thereby fosters cooperation and coordination with persons engaged in facilitating transactions in securities.

The Exchange believes its current proposal is in line with the original intent behind the allocation methodology for BOX Rule 7300 and conforms to the Exchange's established priority of giving Legging Orders last priority. The Exchange continues to believe that providing priority for single option orders or quotes over Legging Orders is reasonable as it preserves the established priority of single option orders when executing with Complex Orders. In addition, the Exchange notes that the Exchange's Legging Order rule explicitly states "[a] Legging Order is executed only after all other executable orders and quotes at the same price are executed in full."¹⁷ Therefore, the Exchange believes the proposal contributes to harmonizing the Exchange's Rulebook and will help avoid investor confusion when executing orders on the Exchange.

Lastly, the proposed non-substantive addition of the word "Preferred" in Rule 7300(c)(2) is a more precise description which better articulates the current allocation process. The Exchange believes this technical amendment will improve the rules readability, promote

consistent terminology in the rule and thereby further protect investors and the public interest because it makes the rule easier for Participants to comprehend.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As indicated above, no system changes to existing functionality/priority are being made pursuant to this proposal; rather, this proposal is designed to reduce any potential investor confusion as to the allocation methodology for Preferred Orders presently available on the Exchange. Therefore, the proposed changes are designed to enhance clarity and consistency in the Exchange's Rulebook. Furthermore, the Exchange believes the proposed rule change will not impose any unnecessary burden on competition because it coincides with the Exchange's existing rules and allocation methodologies by treating Legging Orders last in priority.

As such, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁸ and Rule 19b-4(f)(6) thereunder.¹⁹

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹¹ See BOX Rule 7240(c)(3) (A Legging Order is executed only after all other executable orders and quotes at the same price are executed in full).

¹² See Securities Exchange Release No. 34-69419 (April 19, 2013), 78 FR 24449 (April 25, 2013) (SR-BOX-2013-01) (Commission Order Approving BOX Rule Change Relating to Complex Orders).

¹³ See BOX Rule 7150(g)(7) (Exchange's Price Improvement Period auction allocates Legging Orders last in priority).

¹⁴ See *id.*

¹⁵ See ISE Rulebook Options 3, Section 7(k)(2) and Options 3, Section 10(c)(1)(E), respectively.

¹⁶ ISE Rulebook Options 3, Section 10(c)(1)(E).

¹⁷ See BOX Rule 7240(c)(3) (Legging Orders).

A proposed rule change filed under Rule 19b-4(f)(6)²⁰ normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)²¹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because it would enable the Exchange to clarify its rule text without delay while continuing to maintain the Exchange's existing rules designating Logging Orders for last priority. For this reason, and because the proposed rule change does not raise any novel regulatory issues, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.²²

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-BOX-2021-16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2021-16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method.

The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2021-16 and should be submitted on or before July 21, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92256; File No. SR-NASDAQ-2021-045]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Modify Certain Pricing Limitations for Companies Listing in Connection With a Direct Listing Primary Offering

June 24, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 11, 2021, The Nasdaq Stock Market LLC ("Nasdaq" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify certain pricing limitations for companies listing in connection with a Direct Listing primary offering in which the company will sell shares itself in the opening auction on the first day of trading on Nasdaq.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ 17 CFR 240.19b-4(f)(6)(iii).

²² For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²³ 17 CFR 200.30-3(a)(12).